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6 *Attorneys for Defendant*

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 YVETTE WEINSTEIN, Chapter 7 Trustee for  
the Bankruptcy Estate of MARIFE BATO fka  
10 MARIFE AVIS,

11 Plaintiff,

12 vs.

13 AMERICAN FAMILY MUTUAL  
INSURANCE COMPANY, a Wisconsin  
14 Corporation, DOES I-V, inclusive; and ROE  
CORPORATIONS I-V, inclusive,  
15

16 Defendants.

Case No. 2:16-cv-02151-GMN-GWF

**STIPULATED PROTECTIVE  
ORDER**

17  
18 1. PURPOSES AND LIMITATIONS

19 Discovery in this action involves production of confidential, proprietary, or private  
20 information for which special protection is warranted. Accordingly, the parties hereby  
21 stipulate to and petition the court to enter the following Stipulated Protective Order. The parties  
22 acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket  
23 protection on all disclosures or responses to discovery, the protection it affords from public  
24 disclosure and use extends only to the limited information or items that are entitled to  
25 confidential treatment under the applicable legal principles, and it does not presumptively  
26 entitle parties to file confidential information under seal.

27 2. "CONFIDENTIAL" MATERIAL

28 "Confidential" material shall include the following documents and tangible things

1 produced or otherwise exchanged:

- 2 • All documents produced in response to Plaintiff's Request for Production No. 2
- 3 including Claim Manuals, documents, writings, and communications that are
- 4 used by claims personnel for reference, training, and guidelines for adjusting
- 5 Plaintiff's claims.
- 6 • To the extent any such documents are produced, all documents produced in
- 7 response to Plaintiff's Request for Production Nos. 4 and 5 including Financial
- 8 Statements, and all documents, communications, financial statements both
- 9 audited and unaudited, and amendments thereto, which show American Family's
- 10 net worth for the last five years according to GAAP or state net income or loss
- 11 over the last five years.
- 12 • Any other documents so designated by counsel in response to later requests for
- 13 production.

14 Defendant American Family reserves the right to supplement this list as discovery  
15 continues. Additional identified materials will be subject to this Stipulated Protective Order.

### 16 3. SCOPE

17 The protections conferred by this agreement cover not only confidential material (as  
18 defined above), but also (1) any information copied or extracted from confidential material; (2)  
19 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,  
20 conversations, or presentations by parties or their counsel that might reveal confidential  
21 material. However, the protections conferred by this agreement do not cover information that is  
22 in the public domain or becomes part of the public domain through trial or otherwise.

### 23 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

24 4.1 Basic Principles. A receiving party may use confidential material that is  
25 disclosed or produced by another party or by a non-party in connection with this case only for  
26 prosecuting, defending, or attempting to settle this litigation. Confidential material may be  
27 disclosed only to the categories of persons and under the conditions described in this  
28 agreement. Confidential material must be stored and maintained by a receiving party at a

1 location and in a secure manner that ensures that access is limited to the persons authorized  
2 under this agreement.

3 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise  
4 ordered by the court or permitted in writing by the designating party, a receiving party may  
5 disclose any confidential material only to:

6 (a) the receiving party's counsel of record in this action, as well as employees of  
7 counsel to whom it is reasonably necessary to disclose the information for this litigation;

8 (b) the officers, directors, and employees (including in house counsel) of the  
9 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties  
10 agree that a particular document or material produced is for Attorney's Eyes Only and is so  
11 designated;

12 (c) experts and consultants to whom disclosure is reasonably necessary for this  
13 litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit  
14 A);

15 (d) the court, court personnel, and court reporters and their staff;

16 (e) copy or imaging services retained by counsel to assist in the duplication of  
17 confidential material, provided that counsel for the party retaining the copy or imaging service  
18 instructs the service not to disclose any confidential material to third parties and to immediately  
19 return all originals and copies of any confidential material;

20 (f) during their depositions, witnesses in the action to whom disclosure is  
21 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"  
22 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of  
23 transcribed deposition testimony or exhibits to depositions that reveal confidential material  
24 must be separately bound by the court reporter and may not be disclosed to anyone except as  
25 permitted under this agreement;

26 (g) the author or recipient of a document containing the information or a custodian  
27 or other person who otherwise possessed or knew the information.

28 4.3 Filing Confidential Material. Before filing confidential material or discussing or

1 referencing such material in court filings, the filing party shall confer with the designating party  
2 to determine whether the designating party will remove the confidential designation, whether  
3 the document can be redacted, or whether a motion to seal or stipulation and proposed order is  
4 warranted. Local Civil Rule 10-5(b) sets forth the procedures that must be followed and the  
5 standards that will be applied when a party seeks permission from the court to file material  
6 under seal.

7 5. DESIGNATING PROTECTED MATERIAL

8 5.1 Exercise of Restraint and Care in Designating Material for Protection.

9 Each party or non-party that designated information or items for protection under this  
10 agreement must take care to limit any such designation to specific material that qualifies under  
11 the appropriate standards. The designating party must designate for protection only those parts  
12 of material, documents, items, or oral or written communications that qualify, so that other  
13 portions of the material, documents, items, or communications for which protection is not  
14 warranted are not swept unjustifiably within the ambit of this agreement.

15 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
16 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
17 unnecessarily encumber or delay the case development process or to impose unnecessary  
18 expenses and burdens on other parties) expose the designating party to sanctions.

19 If it comes to a designating party's attention that information or items that it designated  
20 for protection do not qualify for protection, the designating party must promptly notify all other  
21 parties that it is withdrawing the mistaken designation.

22 5.2 Manner and Timing of Designations. Except as otherwise provided in this  
23 agreement (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or  
24 ordered, disclosure or discovery material that qualifies for protection under this agreement must  
25 be clearly so designated before or when the material is disclosed or produced.

26 (a) Information in documentary form: (e.g., paper or electronic documents  
27 and depositions exhibits, but excluding transcripts of depositions or other pretrial or trial  
28 proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that

contains confidential material. If only a portion or portions of the material on a page qualifies for protection, the producing party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) Testimony given in deposition or in other pretrial or trial proceedings: the parties must identify on the record, during the deposition, hearing, or other proceeding, all protected testimony, without prejudice to their right to so designate other testimony after reviewing the transcript. Any party or non-party may, within fifteen days after receiving a deposition transcript, designate portions of the transcript, or exhibits thereto, as confidential.

(c) Other tangible items: the producing party must affix in a prominent place on the exterior of the container or containers in which the information or item is stored the word "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the designating party's right to secure protection under this agreement for such material. Upon timely correction of a designation, the receiving party must make reasonable efforts to ensure that the material is treated in accordance with the provisions of this agreement.

## 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any party or non-party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. The parties must make every attempt to resolve any dispute regarding confidential designations or for a protective order must include a certification, in the motion or in a declaration or affidavit, that the movant has engaged in a good faith meet and confer conference with other affected parties in an effort to resolve the dispute without court

1 action. The certification must list the date, manner, and participants to the conference. A good  
2 faith effort to confer requires a face-to-face meeting or a telephone conference.

3 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court  
4 intervention, the designating party may file and serve a motion to retain the confidentiality of  
5 the designated documents. The burden of persuasion in any such motion shall be on the  
6 designating party. Frivolous challenges, and those made for an improper purpose (e.g., to  
7 harass or impose unnecessary expenses and burdens on other parties) may expose the  
8 challenging party to sanctions. All parties shall continue to maintain the material in question as  
9 confidential until the court rules on the challenge.

10 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
11 LITIGATION

12 If a party is served with a subpoena or a court order issued in other litigation that  
13 compels disclosure of any information or items designated in this action as  
14 “CONFIDENTIAL,” that party must:

15 (a) promptly notify the designating party in writing and include a copy of the  
16 subpoena or court order;

17 (b) promptly notify in writing the party who caused the subpoena or order to issue in  
18 the other litigation that some or all of the material covered by the subpoena or order is subject  
19 to this agreement. Such notification shall include a copy of this agreement; and

20 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
21 designating party whose confidential material may be affected.

22 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

23 If a receiving party learns that, by inadvertence or otherwise, it had disclosed  
24 confidential material to any person or in any circumstance not authorized under this agreement,  
25 the receiving party must immediately (a) notify in writing the designating party of the  
26 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
27 protected material, (c) inform the person or persons to whom unauthorized disclosures were  
28 made of all the terms of this agreement, and (d) request that such person or persons execute the

1 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

2 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
 3 MATERIAL

4 When a producing party gives notice to receiving parties that certain inadvertently  
 5 produced material is subject to a claim of privilege or other protection, the obligations of the  
 6 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This  
 7 provision is not intended to modify whatever procedure may be established in an e-discovery  
 8 order or agreement that provides for production without prior privilege review. Parties shall  
 9 confer on an appropriate non-waiver order under Fed. R. Evid. 502.

10 10. NON TERMINATION AND RETURN OF DOCUMENTS

11 Within 60 days after the termination of this action, including all appeals, each receiving  
 12 party must return all confidential material to the producing party, including all copies, extracts  
 13 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of  
 14 destruction.

15 Notwithstanding this provision, counsel are entitle to retain one archival copy of all  
 16 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,  
 17 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert  
 18 work product, even if such materials contain confidential material.

19 The confidentiality obligation imposed by this agreement shall remain in effect until a  
 20 designating party agrees otherwise in writing or a court orders otherwise.

21 11. ADDITIONAL PROVISIONS.

22 Nonwaiver: This stipulation is not, and shall not be interpreted as, a waiver by Plaintiff  
 23 of any discovery rights or right to compel further production of documents. This stipulation is  
 24 not, and shall not be interpreted as, a waiver by American Family to claim in this lawsuit or  
 25 otherwise that the confidential materials described herein are privileged or otherwise  
 26 nondiscoverable, or inadmissible.

27 Violation or Order: Upon an alleged violation of this stipulated protective order, the  
 28 Court on its own motion or on the motion of any party, may grant relief as it deems appropriate



1 in law or equity. Should any provision of this stipulation or protective order be stricken or held  
2 invalid by any Court of competent jurisdiction, all remaining provisions shall remain in full  
3 force and effect.

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Case No.: 2:16-cv-02151-GMN-GWF  
STIPULATED PROTECTIVE ORDER

**IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

Dated this 14th day of September, 2016.

HUTCHISON & STEFFEN, LLC

/s/ Scott A. Flinders

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*Attorneys for Defendant*

Dated this 14<sup>th</sup> day of September, 2016.

LAW OFFICES OF KEVIN R. HANSEN

/s/ Kevin R. Hansen

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Dated this 14<sup>th</sup> day of September, 2016.

RYAN ALEXANDER, CHTD.

/s/ Ryan Alexander

\_\_\_\_\_  
Ryan Alexander (10845)  
3017 West Charleston Blvd., Suite 58  
Las Vegas, Nevada 89102

*Attorneys for Plaintiff*

**ORDER**

IT IS SO ORDERED.

DATED this 14th day of September, 2016.

  
UNITED STATES MAGISTRATE JUDGE

Submitted by:  
HUTCHISON & STEFFEN, LLC

/s/ Scott A. Flinders

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